

REMARKS

Claims 1-11 were pending in the present application. Claims 12-13 were previously cancelled. In this Response, Claims 1, 2, 4, 6, 7, and 11 have been amended and new Claims 14-16 have been added. The amendments to Claims 1, 2, 4, 6, 7, and 11 do not add new subject matter. Accordingly, Claims 1-11 and 14-16 are pending for consideration. Applicants respectfully request that the Examiner reconsider the current rejections in view of the remarks provided below.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-4, 7, 8, 10, and 11 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 7,549,419 to Carlsen. Applicants respectfully traverse the rejection because Carlsen fails to teach or suggest each and every recited limitation of the rejected claims.

Claim 1

Claim 1 recites, among other limitations,

“a pressurised source of gases,”

“a catheter mount that is substantially tubular and adapted to be fitted in use between said patient connector and said gases transport means, said catheter mount including an additional passageway for receiving an aspirating system, said passageway covered by a seal,” and

“a proximal connector attached to said envelope,” “said proximal connector being releasably connected to said catheter mount.”

In contrast, Carlsen does not disclose a pressurized source of gases. The Office Action states that an HME is a pressurized source of gases; however, Carlsen explains that “it is common to place a heat and moisture exchanger (HME) on the proximal end of the artificial airway after removal of the mechanical ventilator” for “patients who are able to breathe on their own for an extended period of time.” (Carlsen, col. 1, lns. 48-52) (emphasis added) An HME allows atmospheric air to pass through; it is not a source of pressurized gases itself.

Carlsen also does not disclose a catheter mount. The present application explains that “[a]n elbow connector 6 and catheter tube 4 are connected together to form a catheter mount” and that the catheter mount is adapted for use between a patient connector and gas transport means. (page 4, lines 29-30; page 3, lines 8-10) The Office Action states that “Carlsen discloses a proximal connector (46) and catheter mount (42).” (Office Action page 4) However, feature 42 is the adapter rather than a catheter mount, and feature 46 is the proximal side of the adaptor 42.

Furthermore, the adaptor 42 of Carlsen is “for connecting a closed suction catheter assembly to an HME mounted on an artificial airway.” (Carlsen at col. 2, lns. 18-20) This is in contrast to the proximal connector of Claim 1, which, as the Applicants explain, “releasably connects the aspirating assembly 8 to the elbow connector 6” of the catheter mount. (Page 6, lines 1-2 of the present application as filed) Thus, Claim 1 is not anticipated by Carlsen for at least these reasons.

Claim 10

Claim 10 recites, among other limitations, a “proximal connector attached to said envelope,” “said proximal connector [being] releasably connected to said catheter mount.” Therefore, Claim 10 is not anticipated by Carlsen for reasons similar to those discussed above with respect to Claim 1, i.e., Carlsen does not disclose a catheter mount and the adapter of Carlsen is not releasably connected to a catheter mount.

Claim 3

Claim 3 depends from Claim 2, which depends from Claim 1. Thus, Claim 3 is not anticipated by Carlsen for at least the same reasons discussed above with respect to Claim 1. In addition, Claim 3 distinguishes over the applied art for the unique combinations of features recited therein. For example, Claim 3 recites, among other limitations, “when connected, adjacent surfaces on said proximal connector and said catheter mount abut to form a seal and prevent gases leaking into said chamber through said seal from exiting to the atmosphere.” In contrast, Carlsen does not disclose that its adapter forms a seal with the HME.

This feature of Claim 3 provides important benefits. For example, as the Applicants explain, “it is difficult to maintain PEEP (Positive endoexpiratory pressure) within the system if

the system is not sealed.” (Page 2, lines 8-10 of the present application as filed) “The seal [of the catheter mount] 16 and the features of the proximal connector 12 outlined above also ensure that any gas leakage through the seal 16 does not result in an excessive loss of PEEP.” (Page 8, lines 1-3 of the present application as filed) Carlsen does not contemplate such benefits or solve such technical problems. As explained above, a patient breathes in atmospheric air through an HME and exhaled air is returned to the atmosphere. The representative HME illustrated in Figure 1 of Carlsen includes porous material 24 in the housing through which air can flow. There is no need for the system of Carlsen to create a substantially air tight seal to maintain PEEP.

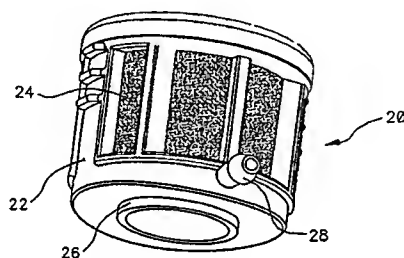


FIG. 1 (PRIOR ART)

Claims 2, 4, 7, 8, 11

Claims 2, 4, 7, and 8 depend from Claim 1 or from claims that depend from claim 1, and Claim 11 depends from Claim 10. Therefore, these claims are not anticipated by the applied art for at least the same reasons discussed above with respect to Claims 1 and 10. In addition, Claims 2, 4, 7, 8, and 11 distinguish over the applied art for the unique combinations of features recited in those claims.

Claim Rejections Under 35 U.S.C. § 103

Claims 5, 6, and 9 stand rejected under 35 U.S.C. § 103(a) as obvious over Carlsen in view of U.S. Patent No. 5,715,815 to Lorenzen. Claims 5, 6, and 9 depend from Claim 1 or from claims that depend from claim 1. Because Lorenzen does not teach the limitations also not taught or disclosed by Carlsen, the combination of Carlsen and Lorenzen could not have taught at least those limitations. Thus, Claim 1 is patentable over the applied combination and Claims 5, 6, and 9 are patentable over the applied combination for at least the same reasons. In addition,

Claims 5, 6, and 9 distinguish over the applied art for the unique combinations of features recited in those claims.

New Claims 14-16

New independent Claims 14 and 15 and new dependent claim 16 have been added herein. Applicant submits that Claims 14-16 do not add new matter.

New Claim 14 is directed to a catheter mount with “at least three passageways” and “adapted to be fitted in use between said patient connector and said gases transport means.” As discussed above with respect to Claim 1, Carlsen does not disclose such a catheter mount. New Claim 15 recites, among other limitations, a catheter tube connector “said piercing member extending beyond said rim of said outer cup-shaped fitting.” In contrast to the language of Claim 15, Carlsen illustrates an annular projection 44 that is fully within the retainer 52. (See Carlsen Figure 3 below)

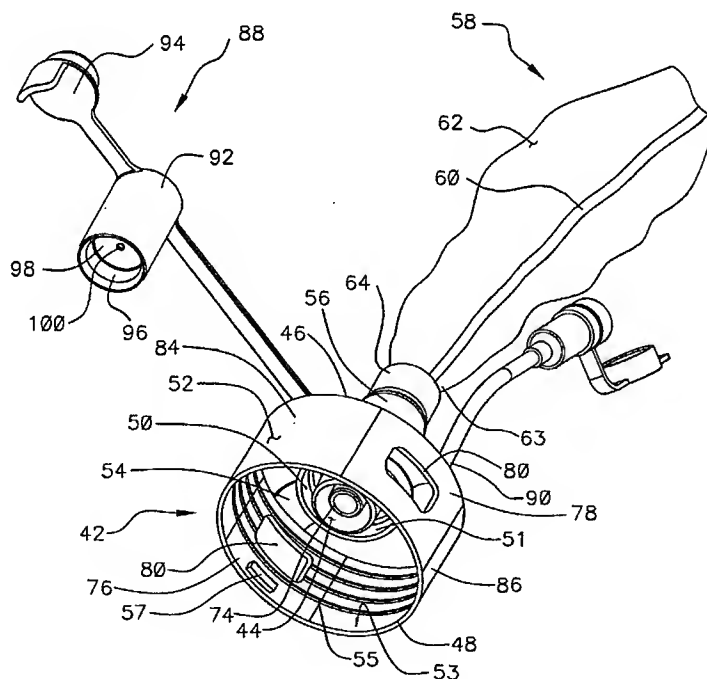


FIG. 3

Claim 15 also recites, among other limitations, that “said suction tube fits snugly within said piercing member.” As the Applicants explain, “[t]his snug fit has the advantage that little or no gases escape through the seal 16 to pass between the catheter tube 9 and the central protrusion 20.” (Page 7, lines 13-15 of the present application as filed) In contrast, Carlsen discloses that

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the annular projection 44 is configured to hold open the projections 38 of the seal so that “the projections 38 are sufficiently distant from the catheter 60 so that mucus is not removed from the catheter 60 by the projections 38. If mucus accumulates in and is allowed to remain in the HME 20, it may interfere with the patient’s breathing.” (Carlsen, col. 6, lns. 27-34) Therefore, Carlsen teaches that in its system it would not be desirable for the catheter to fit snugly within the annular projection because the annular projection could remove mucus from the catheter within the HME.

Applicants submit that new Claims 14-16 are patentable and distinguishable over the applied art. Consideration and allowance of Claims 14-16 are respectfully requested.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicants wish to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Docket No.	Serial No.	Title	Filed
FPHCR.123DA	29/359,361	Connector for a Patient Ventilating and Aspirating System	04-09-2010

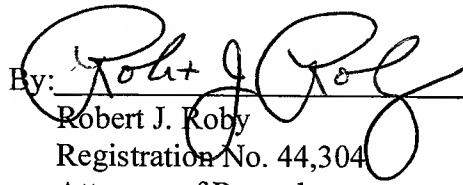
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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